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June 25, 2018

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: CG DOCKET No. 02-278**

Dear Ms. Dortch:

I write to voice my opinion that the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 et seq., should be interpreted and enforced to give maximum protection to consumers and all of us who receive the daily unwanted and robo-dialed calls.

I litigate on behalf of individuals that have received solicitation and debt collection robocalls. On the solicitation side, I have seen businesses purchase telephone numbers for an entire zip code and then blast out over a million unwanted messages. On the debt collection side, I have seen debt collectors call up to 5 times a day on a daily basis for months or years on end. Some debt collectors use the threat of continued frequent phone calls to force the individual to make payment on debts that may or may not be valid and on debts that may not be legally collectable.

If callers are not prohibited from dialing from a stored list the TCPA will be worthless as a consumer protection statute. The concept should be very simple. If a company is going to use their computers to save time and money in making calls, the company should first have the consent of the actual recipient of those calls before it is allowed to make those calls.

If the FCC issues definitions of “automated telephone dialing system” and “call” that are as narrow as the calling industry urges, the consequence will be a

tsunami of unwanted—and unstoppable— calls to our cell phones. I strongly urge the FCC not to take this route but, instead, to write definitions that will ensure that the consumer protection law it is charged with implementing is effective in protecting the sanctity of Americans' privacy.

Specifically, I endorse the following comments/positions of the National Consumer Law Center and others:

1. **The FCC Should Interpret the Term “Automated Telephone Dialing System” (ATDS) Broadly So That Consumers Are Protected From Unwanted Calls.** The FCC must resist industry requests to eviscerate this protection by interpreting the term “automatic telephone dialing system” (ATDS) so narrowly that it does not apply to the devices that are used today to inundate consumers with unwanted calls. The statutory language should be interpreted to encompass any device that dials numbers from a stored list, regardless of whether it generates those numbers. In addition, the FCC should interpret the term “capacity” in the ATDS definition broadly, coupled with a specific carve-out for the ordinary use of a smartphone. Finally, the word “sequential” in the definition of ATDS should be interpreted not to be limited to numerical order, but to include the generation and dialing of numbers in any sequence, including a sequence selected from a list.
2. **The FCC Should Clearly and Forcefully Shut Down TCPA Evasions.** An example is clicker systems, which require that a human click a button over and over again to launch calls for a set of agents who will speak to the called parties who answer. The TCPA Governs All Calls That Use ATDS Equipment. The TCPA’s protections explicitly and unquestionably apply to “any call . . . using any automatic telephone dial system.” The FCC should resist calls to misinterpret the statute as applying only to calls that use the automated capacity of the system.
3. **The TCPA Governs All Calls That Use ATDS Equipment.** The TCPA’s protections explicitly and unquestionably apply to “any call . . . using any automatic telephone dial system.” The FCC should resist calls to misinterpret the statute as applying only to calls that use the automated capacity of the system.

4. **Calls to Reassigned Numbers Must Be Closely Limited.** The FCC should reiterate the rule that “called party” means the person actually called, even if the telephone number has been reassigned from a person who had given consent. The Commission should push forward with its initiative to facilitate compliance by creating a reassigned number database.
5. **Revocation of Consent Should Be Simple and Always Permitted.** I support the Commission’s idea of designating clearly defined and easy-to-use methods for consumers to revoke their consent to receive robocalls. This initiative will encourage callers to make these revocation methods available to consumers, which will make it easier for consumers to regain control of their phones by revoking consent, and thus protect their privacy.

Thank you in advance for your consideration of my comments.

Sincerely,

Chris R. Miltenberger, Esq.